

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

STEVEN McDERMOTT,  
Plaintiff,

vs.

FED EX GROUND PACKAGE  
SYSTEMS, INC.,  
Defendant

and

T.S. PRUITT,  
Defendant.

Civil Action No.: 04-CV-12253

**DEFENDANTS FEDEX GROUND PACKAGE SYSTEMS, INC.'S  
AND T.S. PRUITT'S MOTION FOR LEAVE TO FILE THIRD-PARTY COMPLAINT**

Defendants FedEx Ground Package Systems, Inc. ("FedEx") and T.S. Pruitt ("Pruitt") ("Defendants"), pursuant to Fed. R. Civ. Proc. 14(a), request leave of this Court to file a third-party complaint against D. Ponce, D.W. Smith, J.T. Fosbrink, Lorraine Odzana, Administratrix of the Estate of James J. Odzana, Jaclyn Paletta, Administratrix of the Estate of Mario J. Castro, Allegiance Healthcare, E.W. Wylie Corporation, Ryder Truck Rental, Shoreline Transportation, Inc., and Arsenberger Trucking, Inc. (collectively referred to herein as the "Proposed Third-Party Defendants"). In support of this motion, Defendants state the following:

1. On October 26, 2004, the plaintiff Steven McDermott filed this action against FedEx alleging damages resulting from a motor vehicle accident that occurred on February 7, 2003 on Interstate 84 in Pennsylvania.
2. The Plaintiff filed a Motion for Leave to File the First Amended Complaint on July 27, 2005 naming Timothy Pruitt as a defendant. The Motion was allowed on January 19, 2006.

3. Defendants have filed a timely appearance, Answer to the Complaint, and Answer to the First Amended Complaint. Furthermore, defendants have conducted extensive discovery since the Plaintiffs' Motion for Leave to File the First Amended Complaint was allowed.
4. The motor vehicle accident involved five other tractor-trailers, in addition to those driven by Mr. Pruitt and Steven McDermott.
5. Although the plaintiffs have only named FedEx and Mr. Pruitt as defendants, five other tractor trailers were also involved in the alleged accident referenced in their First Amended Complaint. The potential third party defendants named above are the operators of the other tractor trailers, as well as the companies for whom they were operating the vehicles for that were also involved in the alleged incident. Defendants believe that the companies also owned the tractor trailers that were being operated at the time of the alleged incident.
6. Defendants are seeking contribution from these third party defendants. Their liability should be resolved contemporaneously with the plaintiffs' claims against the defendants, in the interests of judicial economy and to telescope the litigation. Such amendments are typically allowed as of course. *Hercules Inc. v. Dynamic Export Corp.*, 71 F.R.D. 101 (S.D.N.Y., 1976); *Dishong v. Peabody Corp.*, 219 F.R.D. 382 (E.D.Va., 2003).
7. Defendants request leave of court to file a third-party complaint against the above-named persons and entities. This request is being made in a timely manner. The proposed third-party complaint with supporting documents is attached as Exhibit A.
8. The granting of this motion will not cause any undue prejudice to the plaintiff.

WHEREFORE, Defendants FedEx Ground Package Systems, Inc. and T.S. Pruitt respectfully request that this Court grant them leave to file a third-party complaint against the above-named persons and entities.

**LOCAL RULE 7.1(A)(2) CERTIFICATION**

The parties have conferred upon this Motion in accordance with Local Rule 7.1(A)(2). The Plaintiffs have assented to this Motion.

**REQUEST FOR ORAL ARGUMENT**

As the Plaintiffs have assented to this Motion, no oral argument is requested.

FEDEX GROUND PACKAGE SYSTEMS, INC.  
And TIMOTHY S. PRUITT  
By Their Attorneys,  
CAMPBELL CAMPBELL EDWARDS &  
CONROY PROFESSIONAL CORPORATION

/s/ Adam A. Larson

---

Adam A. Larson (BBO #632634)  
James M. Campbell (BBO #541882)  
Michael R. Brown (BBO #664239)  
One Constitution Plaza  
Boston, Massachusetts 02129  
(617) 241-3000

**CERTIFICATE OF SERVICE**

I, Adam A. Larson, certify that on November 8, 2006 a true copy of the above was sent electronically, and by first class mail to:

Joseph M. Mahaney, Esq.  
Goguen, McLaughlin, Richards & Mahaney, P.C.  
The Harrier Beecher Stowe House  
2 Pleasant Street  
South Natick, MA 01760

/s/ Adam A. Larson

---

Adam A. Larson